OUS POINTS INVOLVED. the Hands of Two Becelvers-The Opposing Parties Invited to Nominate.

Justice Pratt, in the Supreme Court, Brooklyn, handed down yesterday a decision which will throw the vast property in the control of the Sugar Trust into the hands of two receivers, to be appointed hereafter. The decision was given on the motions of Duncan Cameron and John H. Gleason, owners of certificates of the defunct Trust, for the appointment of a receiver of the property. John L. Hill appeared for Cameron's interests, and Elihu Root, Mr. Johnson, and Mr. E. M. Shepard were among the opposing counsel. This is Justice Pratt's decision in full:

Duncan Cameron agt. Henry O. Havemeyer et al. Henry O. Havemeyer agt. The Brooklen Sugar Refinery. PRAIT, J.-In the case first above named a motion is made for the continuance of an injunction and for the appointment of a receiver; and in the second case there is a motion for a receiver by defendants there n.

Immediately after the arguments upon these motions the defendants submitted a proposed lan of reorganization and a sworn statement so called. By so doing that part of the prelimmary injunction to which there were most strenuous objections became inoperative, to wit the part that restrained any plan or scheme of reorganization, as the whole purpose and effect of that part of the injunction was to restrain the defendants in such scheme until they gave certain informathat each of the certificate holders could stand upon an equality, so far as knowing what the scheme was to be and what was the financial for the condition of the Sugar Trust. Until such exhibit was made the injunction was eminently proper and in accordance with the practice in equity. Neither can I see how an injunction and affect the value of the property in the trust which did not interfere with the manufacture or sale of sugar, nor take one dime from the property belonging to the trust or

depreciate its intrinsic value.

It may be well to consider the relation of the defendants in the first suit to the subject of the suit. The best statement of their position is furnished by the defendants themselves under cath. In the bill of complaint thed by them is furnished by the defendants themselves under cath. In the bill of complaint filed by them in the sult of Havemeyer and others against the Brooklyn Sugar Refining Company and others above named, they state that they have a large amount of property in their hands which they received rursuant to the original trust agreement, which is conceiled by them to be unlawful and void, and that they therefore ought not longer to exercise the duties of trustees under it. Certainly, if it be void, they ought not to attempt to perform the duties which its isnguage imposes on them, because such acts would constitute further offences against law, which would subject the corporations composing the trust to forfeiture of their charters. Besides, they profess to desire to be relieved from responsibility and from their positions. Now, a meat serious question arises, whether or not they have any title, or are anything more than mere custodians of property which belongs to others, to wit, the

their positions. Now a most serious question arises, whether or not they have any tittle or are anything more than mere custodians of property which belongs to others, to wit, the certificate holders.

At the present time, I think, they are mere custodians. If any argument is required to establish this proposition it will be found in the history of the organization of the Sugar Trust. It is true that the original agreement cannot be enforced as a contract, but it establishes the fact that each stockholder in each corporation in the trust empowered these cleven persons (trustees) to act in receiving his stock and in sauing a so-called trust certificate in place thereof, which certificate the stockholder accepted as evidence of his right to an undivided interest in the pool of stock; and it also alters another eact, that these trustees had further power to dispose of the filteen per cent, of the stock of the pool for the benefit of those who should become certificate holders. These powers have been executed. The original stockholders have secopted their trust certificates, and some have been sold in the open market by their original holders to persons who have purchased and paid for them. The same is true of the 15 per cent, of certificates. It is, therefore, obvious that so far as these sales were made by the original holders they are estopped from questioning the title of the persons who have bought these emblems of title. The holders of certificates therefore derive title from the stockholders, not from these trustees, but from the original owners of the stock, through and by means of the executed authority given to these trustees, by such original stock owners. It is not necessary, however, to determine where the legal title is, as there can be no doubt that they hold the prop-

stock, through and by means of the executed authority given to these trustees by such original stock owners. It is not necessary, however, to determine where the legal title is, as there can be no doubt that they hold the property in a trust capacity, not under the original deed of trust agreement, but under a trust which arises by operation of law. Indeed, upon the argument, it was conceded that the property justly belonged to the trust certificate holders; and in the bill of complaint just referred to, the plaintiffs, to wit, these trustees, stated that said Board of Trustees held the property which came into their hands by virtue of said trust agreement, for which they were willing to account in this action to the certificate holders, in the proportion which the amount of the e-rificates held by them respectively bears to the amount of the whole number of certificates issued.

We therefore find the defendants in possession of property belonging equitably to others, which came into their hands under an agreement of the whole number of the purposes for which it was placed in their hands; and they are utterly powerless to convey and give a good title or to distribute it to its rightful owners. Whether the agreement is valid in some respects wherein it has been executed, or whether, under the circumstances, the certificate holders compose a partnership, it is not material how to determine, as these motions plates strictly to the custody and disposition of the property. The defendants object to the plantiff Cameron being heard upon these motions for thereason, as they assert, that he did pot own his trust certificate when he began his suit. This is predicated on the fact that 500 shares of his alleged 1.200 shares of stock were not transferred on the books of the Sugar Trust until the 15th inst., and the suit was commenced on the 18th inst.; thus assuming that he could get no title without a transfer ent the books of the trust; but the cally ground for such alleged necessity is the terms of the original Sugar Tru

had his stock transferred on the books of the trust.

It must be admitted that the rights of the serificate holders are equal, and that the pelder of a few certificates is equally entitled to protection with one who owns a large quantity. The bugar Trust is not a corporation, and another be satutes applicated to the reorganization of corporations have no application. It is not, therefore, a case where a majority can correct the minority into any new scheme of reorganization. The purposes of the agreement or copartnership, or whatever it may be salled, having failed, each certificate holder has a right to demand that the affairs shall be wound up, and that he have his share of the joint property, and I know of no way that such an event can be accomplished, except by the unanimous on-sent of the certificate holders or by application to the courts. In the mean time, what is to be done with the property is a vital question, shall the business that has been declared illengal be continued and thus place in reopardy the charters of all the corporations connected with the trust? Or shall the statement of these interested in it; shall this was amount or property be left in the hands of a Board, acting without any defined duties or restrictions, without any legal authority, and subject only to the will or discretion of a majority of a members?

It is conceded on an in sides that, at some time, it will be the essary to apply to the court to appoint one person to dispose of the property

Jority of its members?

It is conceded on all sides that, at some time, it will be ne essay to apply to the court to appoint some person to discuss of the property of the trust and divide the proceeds. Upon one hand we have certificate holders asking for immediate settlement of the trust, and on the other the stain that it is not a process time to interfere with the trustees, as there is a alian of reconstruction in process of execution. This latter cann may be answered by saying that a resider in no way will late lere with a proper plan for recorganization. In fact, no plan for recorganization. In fact, no plan can be carried out without a receiver has officer to discuss of the property, as affected to discuss of the property, as a fixed estimate holders to come in at Once and assent to any scheme of reorganization. The estimate holders to come in at Once and assent to any scheme of reorganization. The estimate holders, each for himself, has a right to demand that his interest in the property and the property and the property of the courts and that he shall be left to destinate the shall be left to destinate the will consider the will consider a fixed whether the will combine with others and form some pan of legal re-reganization or take his share of the trust property. Indeed, in case any legal and satisfactory recorganization which have certificate holders composing it may but he extending the next property. Indeed, in case any legal and satisfactory recorganization with the chair shale or the bulk of it specify the device the decand of creations and erifficate holders composing the part of the trust property in the hands of the record of the trust property in the hands of the record of the trust property. Indeed, in the record of the trust property in the hands of the record of the trust property in the hands of the record of the trust property in the hands of the record of the property in the hands of the record of the property in the hands of the record of the property in the hands of the record of the pr

upon the application of either party. (Martin act. Van Schaick. 4 Paige. 479; Innis agt. Laneling. 7 Faige. 553; Jackson agt. De Forrest. 14 Howard, 81.)

In Martin against Van Schaick the Court said: Each partner has an equal right to the possession and control of the partnership effects and business, and, if they cannot agree among themselves, it is a matter of course to appoint a receiver." among themselves, it is a matter of course to appoint a receiver.

In the Fidelity Ins. Co. agt, Huber (13 Phila., 52) it was held that a receiver would be appointed of property in the hands of a person who was a de facto trustee for several cowners, upon the application of some of them and against the optocition of others, and although no fraud or miscanduct of the custodian was alleged. It is not necessary to entitle a party to the appointment of a receiver that the property in question should be in danger. It is enough that a good equitable title should be made to appear, and that the remedy at law would not fulfil the requisition of justice. "Kerr on Receivers, 3d E.D., 10.

remeny at law would not fuifil the requisition of justice." (Kerr on Receivers, 3d E.D., p.10).

The right of a party to a receiver is a property right, and the discretion of the Court must be exercised in a cordance with the well-settled rules of law. No sufficient answer has been submitted to these legal propositions, but the deendants insist that the Court shall exercise its discretion in permitting them to retain possession of the projectly and continue business in the same manner as before, and urgo as a reason that the price of the certificates in the market may depreciate. I cannot anticipate any such result. But If it were true that such would be the effect it is a good answer to say that judicial decisions cannot be strained to favor speculation in Wall street, where rumors and fatriciations usurp the place of facts. Indeed, it is difficult to conjecture any more violent fluctuations in the stock than assured prior to any legal proceedings having been taken. If the receiver is appointed the rights of the parties can be ascertained and the certificate folders will know what it is their interest to do. If a proper plan of reorganization is prepared self interest on the part of the certificate holders will make them anxious to alopt it, so that if the receiver will help to carry it out without loss of time; and in any event the certificate holders will make them anxious to alopt it, so that if the receiver will be enabled to act with full knowledge upon the matter.

enabled to act with full knowledge upon the matter.

To my mind there never was a clearer case for the appointment of a receiver. It is siways a most embarra-sing and unpleasant duty to perform, for the reason that conflicting interests make an unseemly struggle for recognition in the appointment of a receiver. In this case it is peculiarly so, owing to the fact that to the public it might appear that I had exercised a discretion in taking the property from the custody of men of the highest standing in the community for business capacity and integrity of character; but it must be remembered that the Agreement under which they acquired the property is vide as creating a vast monopoly and so against nublic policy, and that the irrate cannot legally further carry on the business. It must also be noted that

tions belonging to the trust from violating the law and incurring a forfeiture of their charter.

I cannot, therefore, but think such a course is not only demanded by law, but it is to the lest interest of all concerned; for the public, because it will free the corporations composing the trust from their illegal relations with it and permit them to become rehabilitated with their former powers and capacity, and thus avoid forfeiture of their charters and the train of calamities that would follow the interruption of the business of refining augar; for the certificate holders, because it will preserve the property and facilitate the speedy settlement of the matter, either by a reorganization if practicable, or a division of the property.

The Attorney-General, it seems to me, has wisely exercised forbearance toward the corporations composing the trust in order that they might be extricated from their lilegal relations without interruption to their business. The appointment of a receiver will accomplish this result and give assurance that every certificate holder, without discrimination. Will be justly dealt with, and a speedy reorganization or distribution of the property will be had.

The property is of such a large amount, the business so wast and complicated, that it seems to me wise to appoint at least two temporary receivers, or if the plaintiffs in the second ault will more that a decree be entered in that sult appointing permanent receivers.

Both proposed orders or decree, on or before Thursday, the 8th inst. to be left with the clerk. The amount of bonds will be fixed at the time of naming the receivers.

FOR DR. M'GONIGAL.

An application for a stay of proceedings in the case of Dr. Henry G. McGonigal, who is under seatence of fourteen years' imprisonment for his connection with the death of Annie Goodwin, was made yesterday before Justice Pratt in Brooklyn. The motion was made by Lawyer Charles W. Brooke, and was similar to an application previously made before Justice Barrett in this city. Mr. Brooke intends, if possible, to keep his aged client in intends, if possible, to keep his aged client in the Tombs until certain points in the case to be presented to the Courtof Appeals shall have been decided. He asked for the stay on the grounds that the verdict against McGonigal was not justified by the evidence, and that the method of electing the jurers had not been in accordance with law.

District Attorney Fellows opposed the application, and argued that the verdict had been entirely warranted by the evidence. Each part and circumstance presented to the jury was consistent with the prisoner's guilt and inconsistent with any theory of innocence. The meensistent with any theory of innocence. The method adopted in the selection of the jury had been reviewed before Justice Barrett, who had declared that their selection was entirely in conformity with the rules of law.

Justice Pratt reserved his decision.

Surrendered Himself After Two Years. Bernard Hartman, a brewery collector, in June, 1889, lent Max Spiess \$400 on the security of a promissory note purporting to be endersed by S. Steinfeld & Co. of 64 Lispenard street. The note was not paid and the endorsement was proncuneed a forgery by Steinfeld & Co. Spiess disappeared. The Grand Jury indicted him for forgery. Yesterday he surrendered himself in the District Attorney's office. Judge Fitzgerald fixed bail at \$2,500. Ferdinand Ehrlich of 18 West Twenty-first street became Spiess's surety, and he was released.

The Edam at Sea with a List to Port. The steamship Edenbridge, which got in yes terday after a tempestuous voyage from Antwerp, passed the Netherlands-American steamship Edam off Newfoundland, with a heavy list to port. Capt. Republic of the identical conjectured that the Edam's cargo had shifted in a storm. She left here with a deck load of seventy cattle on Oct. 25. Capt. Reynolds saw no cattle, and thinks they were lost. The Edam carried no passengers.

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Curious Phases and the Direful Results Inherited Disease.

Doubtless crime is often committed from the mere love of it. The identity of "Jack the Ripper" remains undiscovered, so we do not know what impelled him to the commission of his atrocious crimes. Little doubt he was insane, his actions controlled by an abnormal condition of the mind; it is plain none of the ordinary reasons for crime prevailed in his case. He was, perhaps, a victim of some hereditary taint, which drove him to acts against which his will revolted, and from which, in his rational mo-

ments, his soul recoiled in horror. A French novelist of realism makes the hero of a late novel of such a character. He was a lecomotive engineer, a thorongaly competent an I reliable man; but if he chanced to behold the white throat of a woman a wild frenzy selzed him: he could not control a desire to plunge a knife into it.

He was aware of his infirmity, fought it with stubborn will, denied himself the society of women, and for years controlled himself. At blood, until he flatters himself he is safe. But one night she meets him with gleaming throat bare; the uncontrollable impulse seizes him; he cannot resist; as she throws her loving arms about him he thrusts the knife into her neck. and-she falls. a victim to the madness of

Fortunately for the victims of ordinary forms of inherited disease, they may protect themselves before it obtains dominance in the system. Inherited Kidney disease is especially dangerous, but may be successfully resisted. "In 1883 I was so near death's door with an inherited and complicated case of Bright's disease." writes James H. Dove, 217 Baldwin street. Alpena. Mich., Aug. 11, 1890, "which had baffled all remedies and medical assistance obtainable, that I was given up by friends and physicians as beyond all recovery. In this extremity I was induced to try Warner's Safe Cure, which very soon gave me relief, and led me to persevere in itsuse, until I again became able to attend to my business. My case is well known in this community, and I feel fully warranted in recommending Warner's Safe Cure in cases of kidney disease, knowing full well that I would long since have been in my grave had it not been for the use of this remedy.

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UNIVERSITY PLACE, A corner Clinton place.—Pur-nished rooms; light housekeeping. VANDAM ST. 83 -Large sunny furnished room. WAYRRIEY PLACE, 104, near 6th av.—Handsomely furnished front room; all sonveniences; also back parior, nicely furnished. WAVERLEY PLACE, 228 -Comfortably furnished rooms also two parlors; very resecuable; first bouse from 11th st. WAVERLEY PLACE 1884—Large sunny front room folding bed, running water, gas, bath, grate, 80 also small room WAVERLEY PLACE, 211.-Nicely furnished second nicely low rooms all imprevements; private family 2DAV. 324, corner 19th st -- Front room and connecting bedroom, so weekly; married couple or gentle 10 th St. 62 RAST.—Nicely furnished rooms: also furnished in private or business; furnished or un 10 TH ST, 114 EAST -Single and double, nicely fur lished rooms; beated gas, bath; terms moderate. 10 H ST., 110 Bast.—Handsomely furnished rooms 1 1 TH ST. 125 KAST.—Single and double rooms; nice quiet house; gents or light housekeeping. 11TH ST. 55 WEST. - Neatly furnished rooms for

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